

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARYL STRENKE,

Plaintiff,

v.

JOHN H. FEINER and
ROBERT ALAN GLICKMAN,

Defendants.

ORDER

09-cv-473-slc

Plaintiff has filed a document titled "Motion for Default Judgment," which I construe as a motion for entry of default against defendant Robert Glickman under Fed. R. Civ. P. 55(a). Plaintiff's motion will be denied.

In his motion for entry of default, which is dated April 12, 2010, plaintiff contends that defendant Glickman should be found in default because he has failed to respond to plaintiff's complaint.

Fed. R. Civ. P. 55(a) states:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

The court's record reveals that defendant Glickman filed an electronic answer to plaintiff's complaint on April 6, 2010 and that plaintiff was sent a copy of the answer on that same day via the United States Postal Service. Because defendant has not failed to plead or otherwise defend this lawsuit, there is no basis for granting plaintiff's motion for entry of default.

One additional matter requires comment. It does not appear that plaintiff mailed a copy of his default motion to defendant Glickman as Fed. R. Civ. P. 5 requires. It is not this court's practice to consider documents filed by one party that have not been served on the opposing party. In the future, if plaintiff attempts to communicate with this court without following the service requirements of Rule 5, his documents will not be considered.

ORDER

IT IS ORDERED that plaintiff's motion for entry of default pursuant to Fed. R. Civ. P. 55(a) is DENIED.

Entered this 19th day of April, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge